

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Review Application No. 38/2020
IN
Original Application No. 350/2018

Madicharia Satyanarayana & Anr.

Applicant

Versus

Union of India & Ors.

Respondent(s)

State of Andhra Pradesh

.....

Review Applicant

Date of hearing: 27.11.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

IN CHAMBER BY CIRCULATION

ORDER

1. This review application has been filed by the State of Andhra Pradesh for review of order of this Tribunal dated 09.09.2020 in OA No. 350/2018, *Anr. vs. Union of India & Ors.*

2. The Tribunal dealt with the issue of legality of Purushothapatnam Lift Irrigation Scheme, undertaken by the State of Andhra Pradesh, for drawl and lifting of water from River Godavari, near Purushothapatnam Village in Seethanagaram (M), E.G. District, Andhra Pradesh, without obtaining Environmental Clearance (EC), as per the procedure laid down in the Environment Impact Assessment (EIA) Notification, 2006. The Tribunal considered the matter in the light of report of the Central Pollution Control Board (CPCB) dated 28.04.2020 to the effect that the

1.	<i>Purpose of Project:</i>	<i>Lifting 30 TMC of water (100 cumecs @ 10 cumecs of pumping by each pump) from River Godavari</i>
2.	<i>Project location:</i>	<i>17°15'21" N, 61°39'41" E</i>
3.	<i>Date of start of project:</i>	<i>31.01.2017</i>
4.	<i>Date of completion:</i>	<i>04.01.2019</i>
5.	<i>Reservoir capacity (TMC):</i>	<i>It is a pumping scheme to divert 30 TMC of water from River Godavari</i>
6.	<i>Canal Length (km):</i>	<i>Nil</i>
7.	<i>River from where water is drawn:</i>	<i>Godavari</i>
8.	<i>Details of the water pumped:</i>	<i>Flood water during rainy season</i>
0.	<i>Land Requirement:</i>	<i>326.38 acres (plain land)</i>
1.	<i>Land Acquired:</i>	<i>326.38 acres</i>
2.	<i>Command Area:</i>	<i>Nil</i>
3.	<i>Ayacut Area:</i>	<i>Existing 68,000 ha of ayacut in and around Yeleru Reservoir is used for</i>
4.	<i>Estimated cost of the Project:</i>	<i>Rs 1637.48 crores</i>
5.	<i>Category of the Project:</i>	<i>1 (c)</i>
6.	<i>Forest land involved:</i>	<i>Nil</i>
7.	<i>Any other sensitive areas:</i>	<i>Nil</i>
8.	<i>Number of Pumps</i>	<i>Stage I: 10 pumps of capacity 3500 Cusec Stage II: 8 pumps of capacity 1400 Cusec</i>
9.	<i>Length of the Pressure Main at stage I:</i>	<i>10.148 km, 5 rows of 3.2 m dia. MS pipes</i>
10.	<i>Length of the Pressure Main at stage II:</i>	<i>13.262 km, 2 rows of 3.2 m dia. MS pipes</i>
18.	<i>Status of Environmental Clearance</i>	<i>Not obtained</i>

The PP informed that completion of construction of Polavaram Multi-Purpose Project (PMPP) will take another 4-5 years and it will take some more time for it to become fully operational. Hence, to avail early benefits, the existing infrastructure of Left Main Canal (LMC) of PMPP, the project viz., Purushothapatnam Lift scheme (PLIS) has been constructed at 40.80 km downstream of AGLB to lift 30 TMC from river Godavari during rainy season. The project involved land acquisition, construction of pump house and pressure main connecting Godavari River at Purushothapatnam Village to LMC of PMPP. Lifting of water is done at two stages. The Stage-I Pumped House is located on Godavari river at km 40.800 of AGLB and delivers water at km 1.600 of LMC of PMPP through 5 rows of Pressure Main of dia. 3.2 m of length 10.148 km. Similarly, the Stage-II Pumped House is located on LMC of PMPP at km 50.00 and delivers water through 2 rows of Pressure Main of dia. 3.2 m of length 13.262 km to Yeleru reservoir. The concerned Deputy Executive Engineer (DEE) of the Water Resource department, Government of Andhra Pradesh informed that the project is already

completed on 30/04/2019. Water is lifted from Godavari river during rainy season only.

The PP submitted that after completion of the PMPP, the water from Polavaram Irrigation Project head works will flow under gravity to the LMC and the infrastructure of PLIS shall be dismantled and all the equipment of this scheme will be reused in some other schemes. But, there is no clarity about dismantling of the pipeline laid on the Pressure main of Stage I. However, the Stage II and its Pressure Main will remain for PMPP.

The PP further informed that the PLIS is not having any cultivable command area but during presentation it was clarified that the water from Yeleru Reservoir will be used not only for drinking and industrial purposes but also for irrigating existing Ayacut of around 68,000 ha CCA.

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Then the Ministry has sought comments on the response to the Show-cause Notice from Central Water Commission (CWC) and the same has been received vide letter dated 21/11/2019. The comments received from CWC are reproduced below:

- i. It is mentioned that Jal Shakti Mantralay (Erstwhile MoWR, RD 81, GR) has issued guidelines for environmental clearance in respect of Irrigation, Flood control and multipurpose projects. In the said guidelines, **CWC is mandated for techno-economic appraisal of all major and medium irrigation projects, which are planned on Inter-State River/River Basin.** Till date no proposal of Purushothapatnam Lift Irrigation Scheme has been received for techno-economic appraisal in CWC.
- ii. As per the Detailed Project Report (DPR) of Polavaram Irrigation Project, there is no association between Purushothapatnam Lift Irrigation Scheme and Polavaram Irrigation Project. Cost of the Purushothapatnam Lift Irrigation Scheme has not been included in the DPR of Polavaram Irrigation Project.
- iii. It is also mentioned that the Godavari River Management Board (GRMB) has also informed that the DPR of the Project has not been made available to GRMB by the Project Authority/ Govt. of Andhra Pradesh for appraisal and technical clearance as per AP Reorganization Act, 2014.

The CWC has further clarified the same and has stated that "**DPR of Purushothapatnam Lift Irrigation Scheme (PLIS) has never been cleared/accepted by the CWC. As per Section 90 of Andhra Pradesh Reorganization Act, 2013, Polavaram Irrigation Project (PIP) was declared as National Project. While appraising the 2nd Revised Cost Estimate of PIP, Purushothapatnam Lift Irrigation Scheme was not appraised as part of PIP and Government of India is not reimbursing the expenditure incurred by the State Government of this project**".

The NGT, while hearing the matter on 20/02/2020, directed to constitute a Committee comprising members of EAC of MoEF&CC on River Valley Projects, CPCB and IIT, Roorkee. The CPCB will be the nodal agency for coordination and compliance, to determine whether independent EC is required or amendment of existing EC is to be taken or what is permissible course or action. The Committee held its meeting on 05/03/2020 where PP gave a detailed presentation about PUS. During the presentation following issues were discussed:

- i. The Committee has examined the issue as directed by the NGT and on the facts present by the PP.
- ii. **The present set up is not only for drinking and industrial use but also for use of irrigation of the existing Ayacut. Therefore, the Committee felt that since there is an irrigation component, environmental clearance for the scheme should be obtained as per the EIA Notification, 2006.**
- iii. Water balance/use is to be provided at each stage to clarify how much will be used for different purposes.
- iv. The left main canal of Polavaram Project is supposed to receive water from the Polavaram reservoir. But now the PUS is transporting water through LMC to Yeleru reservoir for which NOC is to be obtained from the Polavaram Project Authorities.
- v. Consent to establish and consent to operate for the present lift Scheme to be obtained by the PP.
- vi. Necessary permission/clearance is to be obtained from CWC.
- vii. When the PP will come to seek the EC, Social Impact Assessment shall be dealt with during the appraisal process as per the guidelines of EIA Notification, 2006.
- viii. **After the issue of show-cause notice by the Ministry, the Lift Irrigation Scheme for lifting water has been stopped from River Godavari. Therefore, the Committee suggested that the same may continue till all the statutory clearances are obtained.”**

4. The Tribunal accordingly observed:

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5. ... The project has potential of impact on the environment and is not merely for water supply but also involves irrigation and thus, EIA and EC are necessary as per procedure laid down in the EIA Notification 2006. The project proponent may thus ensure compliance of the statutory clearances before going ahead with the project.

6. Since it has been found that EC is necessary, a Committee of CPCB, State PCB, SEIAA, Andhra Pradesh and District Magistrate, Andhra Pradesh may determine the extent of damage caused and the amount of compensation liable to be paid to the affected persons and furnish a report to this Tribunal within six months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR

Support PDF and not in the form of Image PDF. The State PCB will be nodal agency for coordination and compliance.”

5. By way of present review application, the State of Andhra Pradesh is practically seeking rehearing by asserting that the project is not an irrigation project.

6. We are unable to accept the submission. The order sought to be reviewed was passed after due consideration of the rival contentions. Rehearing is not permissible in review proceedings.

Accordingly, the review application is dismissed.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

November 27, 2020
Review Application No. 38/2020
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